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PTO/SB/21 (09-04)
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Application Number	10/821,383
Filing Date	04/09/2004
First Named Inventor	Christopher H. Porter
Art Unit	3763
Examiner Name	Aamer S. Ahmed
Attorney Docket Number	203/505 US; MB-104

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Postcard
<input type="checkbox"/> Remarks: _____		

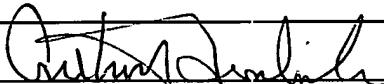
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Freilich, Hornbaker & Rosen		
Signature			
Printed name	Arthur Freilich		
Date	16 February 2006	Reg. No.	19,281

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Typed or printed name

Arthur Freilich

Date 16 February 2006

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Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL For FY 2006

Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)
0.00

Complete if Known

Application Number	10/821,383
Filing Date	04/09/2004
First Named Inventor	Christopher H. Porter
Examiner Name	Aamer S. Ahmed
Art Unit	3763
Attorney Docket No.	203/505 US; MB-104

METHOD OF PAYMENT (check all that apply)

Check Credit Card Money Order None Other (please identify): _____

Deposit Account Deposit Account Number: **501232** Deposit Account Name: **Freilich, Hornbaker & Ros**

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

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FEE CALCULATION (All the fees below are due upon filing or may be subject to a surcharge.)

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

<u>Application Type</u>	<u>FILING FEES</u>		<u>SEARCH FEES</u>		<u>EXAMINATION FEES</u>		<u>Fees Paid (\$)</u>
	<u>Fee (\$)</u>	<u>Small Entity</u>	<u>Fee (\$)</u>	<u>Small Entity</u>	<u>Fee (\$)</u>	<u>Small Entity</u>	
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

2. EXCESS CLAIM FEES

Fee Description

Each claim over 20 (including Reissues)

Small Entity

Fee (\$) Fee (\$)

50 25

Each independent claim over 3 (including Reissues)

200 100

Multiple dependent claims

360 180

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
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Multiple Dependent Claims

Fee (\$) Fee Paid (\$)

- 20 or HP = _____ x _____ = _____

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
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Fee (\$) Fee Paid (\$)

- 3 or HP = _____ x _____ = _____

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
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_____ - 100 = _____ / 50 = _____ (round up to a whole number) x _____ = _____

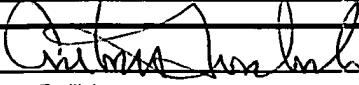
4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Fees Paid (\$)

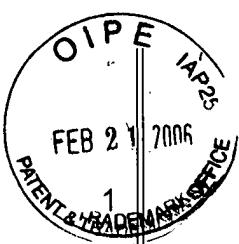
Other (e.g., late filing surcharge): _____

SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 19,281	Telephone 818-678-6408
Name (Print/Type)	Arthur Freilich		Date 16 February 2006

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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DOCKET: 203/505 US; MB-104
APPLICATION: 10/821,383

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:
Christopher H. Porter

Examiner : Aamer S. Ahmed
Art Unit: 3763

Applic.: 10/821,383

Filed: 04/09/2004

For: PERCUTANEOUSLY IMPLANTABLE
MEDICAL DEVICE CONFIGURED TO
PROMOTE TISSUE INGROWTH

Commissioner for Patents
Alexandria, VA 22313-1450

AMENDMENT

The Office Action dated 11/16/2005 has been carefully studied. It is noted that claims 1-9, 13, and 15-21 have been rejected under 35 U.S.C. 102(b) as anticipated by de Groot and claim 14 has been rejected under 35 U.S.C. 103 as unpatentable over de Groot in view of Ellis. Favorable reconsideration is courteously requested.

Applicants' invention is directed to a medical device intended to be surgically implanted in a patient's body. The device includes a stud configured to project percutaneously outward through the patient's skin. In accordance with the invention, the stud longitudinal peripheral surface carries a longitudinally extending porous layer (e.g., 70 in Figure 5). Additionally, a shoulder surface (oriented perpendicular to the stud longitudinal surface) carries a laterally extending porous layer (e.g., 80 in Figure 5). The longitudinally and laterally extending porous layers are configured to promote tissue ingrowth along perpendicular surfaces which together form an especially effective bacteria resistant barrier and create a very effective anchoring for the device. It is respectfully submitted that the cited de Groot reference fails to suggest the use of perpendicular porous layers.

Accordingly, the Examiner is courteously requested to reconsider the de Groot teachings in view of Applicant's comments herein. De Groot describes a percutaneous implant comprised of a subcutaneous part 1 and a percutaneous part 10. The subcutaneous part 1 comprises a mesh sheet 2 which functions to promote tissue ingrowth. Note in de

1 Groot Figure 2 that the mesh sheet 2 is implanted substantially parallel to the patient's skin
2 20. The mesh sheet 2 carries a holding member 3 which includes a round hole having an
3 internal screw thread 4. The percutaneous part 10 comprises a tubular structure having an
4 external screw thread 14 configured to mate with the holding member internal screw thread 4.
5 A hollow tube 30 for transferring fluids extends through the bore of the tubular structure 10.

6 As noted in de Groot column 5, line 4, "during the healing process, the skin 20 will
7 adhere to the percutaneous part 10" (i.e., the longitudinal surface of the tubular structure 10)
8 "in a manner comparable to the manner in which gums adhere to a tooth". Thus, de Groot
9 fails to suggest the use of a porous layer on the longitudinally extending surface of the
10 percutaneous tubular structure for promoting tissue ingrowth. Rather, de Groot's teaching of
11 using a mesh sheet for promoting tissue ingrowth is limited to subcutaneously implanting the
12 sheet substantially parallel to the user's skin. Accordingly, de Groot fails to suggest
13 applicants' teaching of providing porous layers extending both longitudinally and laterally for
14 enabling tissue ingrowth along perpendicular surfaces to enhance bacteria resistance and
15 device anchoring.

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1 It is urged that Applicants' independent claims clearly recite the features distinguishing
2 the present invention over de Groot. More particularly, note that applicants' independent
3 claim 1 is limited to an implantable medical device having a stud configured to project
4 percutaneously through a patient's skin in which a porous layer is mounted on the stud
5 longitudinal surface and on a shoulder surface oriented substantially perpendicular to the
6 longitudinal surface. Independent method claim 16 is similarly limited. Inasmuch as neither
7 de Groot nor Ellis suggest the provision of substantially perpendicular porous layers for
8 promoting tissue ingrowth and enhancing bacteria resistance and anchoring, it is courteously
9 urged that all of the pending claims patentably distinguish the invention. Accordingly,
10 favorable reconsideration is respectfully requested

Respectfully submitted,

Arthur Jorlich

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Attorney for Applicant(s)

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DEPOSIT ACCOUNT AUTHORIZATION:

Throughout the prosecution of this application the Patent and Trademark Office is authorized to charge any additional fees which may be required, or credit any overpayment to Account No. 501232.


ARTHUR FREILICH, Reg. No. 19,281

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Arthur Freilich
ARTHUR FREILICH